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AUG 12 2008

In re Application of :
Richard Charles Gordon Cooper :
Application No. 10/730,990 :
Filed: December 10, 2003 :
Attorney Docket No. 63-5 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 20, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 25, 2006. A three months extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on March 26, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (1).

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Petitioner submits an amendment which in the opinion of examiner in charge of this application does not *prima facie* place the application in condition for allowance (see attached Advisory Action PTOL-303). The claim is considered to be indefinite under 35 USC 112, paragraph 2. Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

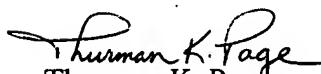
Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
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The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-0602.


Thurman K. Page
Petitions Examiner
Office of Petitions